

An Roinn Caiteachais Phoiblí
Sheachadadh PFN agus Athchóirithe
Department of Public Expenditure
NDP Delivery and Reform



Ref: S1529 PAC33

17 January, 2024

Ms. Sarah O'Farrell
Clerk to the Committee
Committee of Public Accounts
Leinster House
Dublin 2

Dear Ms. O'Farrell

I refer to my meeting with the Committee of Public Accounts on 16 November, 2023 and your follow up letter on behalf of the Committee dated 14 December, 2023 requesting additional information on a number of matters.

The information requested is set out in the attached briefing note, which follows the headings set out in your letter of 14 December, 2023.

I trust that this information will be of assistance to the Committee.

Yours sincerely



David Moloney
Secretary General

**Information Notes requested by the Committee of Public Accounts
following its meeting with the Secretary General of the
Department of Public Expenditure, NDP Delivery and Reform
on 16 November, 2023**

1. **A table outlining the remuneration of Accounting Officers in 2023; and**
2. **A note on the process, following the work of the independent review group, for determining the remuneration of the Accounting Officers for the Department of Housing, Local Government and Heritage, and the Department of Children, Equality, Disability, Integration and Youth.**

The current salaries for Secretary General Level I, II and III (since 1 October 2023, as published in Circular 11 of 2023) are as follows:

	PPC	Non-PPC
Secretary General - Level I	€258,825	€245,884
Secretary General - Level II	€243,600	€231,420
Secretary General - Level III	€230,780	€219,240

** PPC rates apply to Civil Servants appointed on or after 6th April 1995 and are required to pay a Personal Pension Contribution (otherwise known as a main scheme contribution) in accordance with the rules of their main/personal superannuation scheme.*

*** The salary for the Secretary General post in the Department of Health (since 01 February 2022) is €297,869 (PPC).*

Following a decision by the Government on 27 June, 2023, the Independent Review Panel (IRP) were requested to review the grading of two Secretary General posts. The IRP Report was completed in August 2023 and is available at:

<https://www.gov.ie/ga/preasraitis/41a47-minister-donohoe-publishes-report-of-independent-review-panel-on-grading-of-two-secretary-general-posts/>

The independent Report recommended that:

- the Secretary General post in the Department of Children, Equality, Disability, Integration and Youth be set at Secretary General Level II; and
- the Secretary General post in the Department of Housing, Local Government and Heritage be set at Secretary General Level I.

A disclosure note on Secretary General remuneration is included in the annual Appropriation Accounts as per the requirements of Circulars 22/2022 and more recently 22/2023. The circulars set out the detailed requirements for the preparation of Appropriation Accounts for both years, and include the requirement to disclose the remuneration and benefits of Accounting Officers. In the Appropriation Accounts, an Accounting Officer's total remuneration, including the total Gross Salary and taxable benefits (excluding employer's PRSI), is found in Note 5 to the accounts. This information for each Accounting Officer for 2023 is not held centrally by the Department of Public Expenditure, NDP Delivery and Reform. It will be published in the 2023 Appropriation Accounts.

3. A note on any National Development Plan projects cancelled due to rising costs.

The Department of Public Expenditure, NDP Delivery and Reform is responsible for setting the overall capital allocations across Departments and for monitoring monthly expenditure at Departmental level. The responsibility for the management and delivery of individual investment projects, within the allocations agreed under the National Development Plan 2021-30 (NDP), rests with the individual sponsoring Department in each case. The NDP sets out the investment priorities that will underpin the implementation of the National Planning Framework, through a total investment of approximately €165 billion. This represents a very substantial commitment of resources and is expected to move Ireland close to the top of the international league table for public investment.

This level of capital spending will ensure ongoing employment maintenance and creation with appropriate regional development. It will also provide clarity to the construction sector, allowing the industry to provide the capacity and capability required to deliver Government's long-term investment plans.

The significant investment under the NDP does not come without delivery challenges. Delivery of some NDP projects has been adversely impacted over the past three years as a result of the pandemic and the war in Ukraine. There are also challenges that the construction industry has faced in terms of material price inflation, labour supply constraints and supply chain disruption. As a result, in order to safeguard the delivery of key NDP projects, in January 2022, the Department introduced measures to address inflation for new contracts and tenders. Furthermore, in May 2022, a new set of measures to apportion additional inflation costs between the parties to public works contracts were introduced.

The management and delivery of projects rests with the sponsoring Department and Agencies, and as such this Department is not aware of the cancellation of individual projects. No removals of projects from the Project Ireland 2040 Programmes and Projects Tracker have been notified to this Department. However, the Department continues to detail the delivery of NDP projects and programmes at regular intervals, which allows for full transparency on the implementation of Project Ireland 2040. This is achieved through regular updates of the Project Ireland 2040 capital investment tracker and map, as well as the publication of annual reports and regional reports highlighting Project Ireland 2040 achievements and giving a detailed overview of the public investments which have been made throughout the country.

The capital investment tracker provides a composite update on the progress of all major investments with an estimated cost of greater than €20 million. Accompanying the tracker, the myProjectIreland interactive map details smaller investments such as schools and social housing projects across the country and provides information on specific projects by county. Search facilities also allow citizens to view projects in their regional area, by city, by county or by eircode.

Most recently, in July 2023, further amendments were made to the Public Works Contract to provide greater certainty to contractors in response to continuing inflationary pressures in the construction market.

The package included:

- amending the Price Variation Mechanism for recovery of inflationary cost to an approach solely based on indices published by the Central Statistics Office;
- removing the fixed price period for materials, energy and fuel;
- lowering the threshold for recovery of inflationary costs in key material categories; and
- introducing a simple price variation provision to cover materials in Public Works Contracts of lesser value.

This Department will continue to monitor the inflation pressures faced by contractors and is actively engaging with stakeholders, which include industry and public sector contracting authorities.

Details of project delivery can be found in the Project Ireland 2040 Annual and Regional Reports, which have been published for 2018, 2019, 2020, 2021 and 2022. While the reports do not provide an exhaustive list of all public capital expenditure, they serve to highlight the diverse range of investments being made by the State under Project Ireland 2040 in the region.

The Project Ireland 2040 Annual and Regional Reports, capital investment tracker and myProjectIreland interactive map are all available on gov.ie/2040.

4. Details of the four large-scale projects reviewed by the major projects advisory group that were referred to in the 2022 annual report.

The purpose of the Major Projects Advisory Group (MPAG) is to support the application of the Infrastructure Guidelines (formerly the Public Spending Code) and consider major public investment proposals (in particular in relation to costs, scheduling, delivery and risk) in advance of Government Decision.

The role of the Group is to:

- Consider the business case and assurance reports for major public investment projects (defined as projects over €200 million);
- Advise this Department, the relevant Department / Agency and Government on potential issues and risks related to project costs, schedules benefits based on review of the business case and assurance report; and
- Consider, on an ad hoc basis, future reforms to the Infrastructure Guidelines (formerly the Public Spending Code) and governance arrangements for major projects.

In 2022, the MPAG reviewed the Preliminary Business Case and External Review for the following large scale projects covering the areas of health, housing, and transport prior to consideration by Government at Approval Gate 1 – Approval in Principle.

Title	Project Lifecycle Stage	Sector	Date PBC submitted to MPAG	Date MPAG Review Note Completed
BusConnects Dublin	DG1 – Preliminary Business Case	Transport	21 January 2022	23 February 2022
Metrolink	DG1 – Preliminary Business Case	Transport	2 May 2022	21 June 2022
Clonburris Abnormal Strategic Infrastructure	DG1 – Preliminary Business Case	Housing	21 June 2022	20 July 2022
Cork and Galway Elective Care Centres	DG1 – Preliminary Business Case	Health	6 October 2022	17 November 2022

Note: Cork Hospital and Galway Hospital were submitted to MPAG as two separate projects but were jointly reviewed.

For each project, a review note is prepared of the key areas and sections of the business case, outlining areas of concern, key recommendations, as well as positive feedback on what has been done well. Once finalised, the review note is sent to the Approving Authority and Sponsoring Agency before they seek Government consent to approve the proposal. It is also used to inform the observations of the Minister for Public Expenditure, NDP Delivery and Reform on the proposal when being considered by Government.

The MPAG review notes for the four projects are published in full at <https://www.gov.ie/en/publication/f0694-major-projects-advisory-group/>

5. A note on the National Development Plan, including:

- **details of any projects that are being given priority,**
- **the current value of the projects, having regard to current inflation, and**
- **what additional funding, if any, is required to ensure projects are implemented on time.**

As noted earlier, the NDP will deliver total public investment of €165 billion over the period 2021-2030. This Department is responsible for setting the overall capital allocations for Departments and for the Public Spending Code (PSC) / Infrastructure Guidelines which sets the value for money requirements and guidance for evaluating, planning and managing Exchequer-funded capital projects. Management and delivery of specific investment projects and programmes within the agreed NDP allocations and the national frameworks is the responsibility of the relevant Department and Minister.

The management and delivery of projects rests with the sponsoring Department and Agencies. It is up to the individual Departments and Agencies to set out the projects / programmes they seek to prioritise with the capital expenditure available to that sector and they have to review their priorities on an ongoing basis. Project or programme values can change due to a number of reasons, only one of which may be inflation, other such considerations would be project scope, alternative means of delivery, changes in demand, etc. It is the responsibility of each Department and Agency to regularly appraise projects and programmes prior to implementation to assess ongoing demand for the project, project costs, consideration of a range of options for delivery, delivery method, procurement approach and governance. This means that cost estimates of projects may change between project initiation and final project delivery. Departments and agencies must ensure that projects must remain affordable within the allocations for their sectors.

The Government is committed to detailing progress on the delivery of the NDP at regular intervals into the future to allow for full transparency of the implementation of Project Ireland 2040. This is achieved through regular updates of the Project Ireland 2040 capital investment tracker and MyProjectIreland interactive map viewer, as well as the publication of annual reports and regional reports highlighting Project Ireland 2040 achievements and giving a detailed overview of the public investments that have been made throughout the country.

The capital tracker and interactive map are key tools in overseeing the progress of Project Ireland 2040. Their purpose is to facilitate communication, monitoring and planning of investments, to inform citizens of the variety of projects currently in the planning and construction phase in their local regions and throughout the country.

The latest editions of the Project Ireland 2040 capital investment tracker and interactive map were published on the gov.ie/2040 website in February 2023. The tracker includes comprehensive details on almost 320 large scale projects and 140 individual programmes, while the interactive map database includes an exhaustive overview of 1,240 individual projects.

The tracker and map databases contain project updates detailing a considerable amount of information. For example, the tracker provides a brief outline of the project; the Department or Body responsible for delivering the project; the location and region of the project; the type of investment which links it to specific sectors; the alignment of the project with the National Planning Framework's 10 National Strategic Outcomes; the current status of the project; the construction commencement date of the project; the completion or anticipated completion date of the project; the current stage of the project lifecycle as per the Public Spending Code; and finally, there is also information on the project cost range.

6. **A note on the reporting of consultancy fees by State bodies, including:**
- **why there is a discrepancy between the reported figure for consultancy fees and the actual spend on outsourcing in State bodies, including Transport Infrastructure Ireland, the National Asset Management Agency and the Office of Public Works,**
 - **whether any changes will be brought about in relation to the reporting of same, and**
 - **what format such a change would take.**

There is a clear distinction between one off consultancy in the public sector and the sourcing of private sector resources to deliver ongoing activities to State Bodies such as IT development and support. The following three guidance documents for the public service articulate the difference.

The Department of Finance Guidelines for the Engagement of Consultants and Other External Support by the Civil Service, 2006, defines consultancy as: *“where a person, organization or group thereof is engaged to provide intellectual or knowledge-based services (e.g. expert analysis and advice) through delivering reports, studies, assessments, recommendations, proposals, etc. that contribute to decision- or policy-making in a contracting authority”* and the guidelines further state that *“all expenditure on consultancies should be charged to the Consultancy Services Subhead of the Administrative Budget, except where the consultancy is required for:*

- *major investment programmes or major asset disposals;*
- *reviews or evaluations of EU-supported programmes;*
- *related to programme expenditure; or*
- *related to Value for Money policy reviews,*

in which case, the consultancy should be treated as a programme expenditure and charged against the relevant programme subhead.....”

The Department of Public Expenditure, NDP Delivery and Reform provided similar guidance for State bodies on disclosure of consultancy costs stating that *“State bodies should disclose details of expenditure on external consultancy/adviser fees in their annual report and/or financial statements for each accounting year for each entity. For this purpose, consultancy fees means fees paid to external parties providing advisory services of any nature”*.

Further guidance was provided in 2017 (Guide to the Implications for the Annual Financial Statements and the Annual Report) stating that, in relation to consultancy costs, *“The information sought by this disclosure is to reflect the level of consultancy expenditure incurred by the State body in the financial year”* and that consultancy expenditure *“is not intended to include expenditure on processes which have been outsourced under ‘business as usual’”*.

In relation to the three specific examples given (Transport Infrastructure Ireland, the National Asset Management Agency and the Office of Public Works), this Department does not have the information provided under Freedom of Information nor the wording of the FOI requests which may have led to responses diverging from the published guidance and practice. However, the Department will engage with the Bodies concerned to ensure that their financial reporting is in line with the 2017 guidance.

The publication of an annual report and audited financial statements is a primary expression of public accountability for State bodies and, in this regard, the Department will take this matter under consideration and examine proposals to enhance the reporting of consultancy costs as well as reporting the costs of outsourcing of ongoing tasks and activities.

7. An update on the National Development Finance Agency's examination of the public-private partnership contracts won by five of six Spanish construction firms that were sanctioned in Spain.

The following update has been provided to the Department from the National Development Finance Agency (NDFA). This Department has no direct role in any individual procurement processes and the responsibility for approving and contracting PPP projects lies with the relevant Department.

Spain's National Commission for Markets and Competition ("CNMC") published a resolution (Resolución Obra Civil 2 S/0021/20) on 5th July 2022 (the "Resolution"), imposing fines for infringement of Spanish and European competition laws on six Spanish construction companies.

The NDFA understands from correspondence with Obrascon Huarte Lain S.A. ("OHL") (one of the affected Spanish companies) that the Resolution is being appealed to Spain's National High Court by OHL (appeal lodged 23 July 2022) and, pending the appeal, OHL has been granted a stay of the Resolution which suspends the administrative sanctions, including any prohibition on entering into public contracts.

Operational PPP contracts

The NDFA is involved in 15 non-transport operational Public Private Partnership ("PPP") operational contracts under its remit, 10 of which it has procured and five of which were procured by other Contracting Authorities. This note addresses only the 10 PPP contracts procured by the NDFA.

Of the 10 projects procured by the NDFA, two projects were awarded to consortia that included one of these Spanish construction companies. OHL was part of the consortium for the Social Housing Bundle 2 project and Fomento de Construcciones y Contratas S.A. ("FCC") was part of the consortium for the Technical University Dublin,

Grangegorman project. Construction on both of these projects is fully complete and the projects are currently operational¹.

Projects in Construction or Procurement by NDFA

The NDFA has two PPP projects currently in procurement (Higher Education Bundle 2 and Social Housing Bundle 3) and one PPP project in construction (Higher Education Bundle 1). One of the contractors named in the Resolution, OHL, is currently involved in one of these projects in procurement, the Social Housing Bundle 3 PPP project, as a shortlisted candidate in a joint venture with JJ Rhatigan.

Separately, the NDFA note that OHL is part of a joint venture with Ganson Building and Civil Engineering Contractors Ltd. that has been awarded a place on the Design & Build (D&B) Contractor Framework following the NDFA tender competition for the (traditionally funded/non-PPP) second Exchequer Funded Schools Building Programme (also known as the Devolved Schools Building Programme or “DSBP2”) D&B Contractor Framework.

NDFA procurements, whether PPP or Exchequer Funded (that are above certain monetary thresholds), are conducted in accordance with the European Union (Award of Public Authority Contracts) Regulations 2016 (the “Procurement Regulations”)². Regulation 57 of the Procurement Regulations enables a contracting authority in certain circumstances to exclude bidders from procurement procedures for matters such as corruption (Regulation 57(1)(b)), grave professional misconduct (Regulation 57(8)(c)) and agreements with other economic operators aimed at distorting competition (Regulation 57(8)(d)). In deciding whether or not to invoke such exclusionary rights in any particular case, a Contracting Authority must consider all relevant factors, including any remedial measures undertaken by a bidder.

In this regard, OHL provided details to the NDFA of remedial measures it has taken with a view to demonstrating the measures the company has taken to safeguard against the future occurrence of offences such as those alleged in the Resolution.

Based on relevant information provided and on legal advice received to date, noting in particular that (a) no final conviction of OHL has taken place and (b) that OHL appear to have put in place the compliance system and associated certifications to safeguard against the occurrence of the type of misconduct alleged, the NDFA has not sought to invoke Regulation 57 to date. However, the matter will be kept under review if and as any developments arise.

¹ OHL has a small equity stake in the Irish project company operating the Social Housing Bundle 2 project and therefore will remain involved in its capacity as a minority shareholder for the duration of the project, unless the structure of the ownership of the Irish project company changes.

² The Procurement Regulations transpose into Irish law Directive 2014/24/EU on public procurement.

Supplementary Material provided by TII on the involvement of the Sanctioned Companies in Transport Projects

Transport projects delivered through PPP are directly managed by Transport Infrastructure Ireland (TII). For this reason, this Department also sought supplementary material from TII to provide a complete picture of the involvement of the relevant companies in Ireland.

TII informs this Department that it does not have full details of actions by Sanctioned Companies in contesting the findings or appealing the fines imposed by CNMC. However, TII does understand that certain appeals have been made against the sanctions. In addition, TII is not aware whether any evidence was found by CNMC that the anti-competitive practices included competitions for contracts outside of Spain.

Award of contracts to Sanctioned Companies on own or as part of joint venture / partnership

Details of the nine schemes where Sanctioned Companies (or subsidiaries thereof) formed part of a successful bid leading to the award of PPP contracts are detailed in Table 1 (highlighted #). It confirms that four of the Sanctioned Companies were successful in submitting bids for the award of PPP contracts in Ireland, namely Dragados S.A. (on five schemes), FCC Construcción (on two schemes), Ferrovial Construcción (on two schemes) and Sacyr Construcción S.A. (on one scheme). The contracts were awarded in the period 2003-2016 and, in each case, the Spanish entity jointly tendered with an Irish contractor.

TII confirms that as part of the procurement of all PPP schemes, it engaged a range of advisors, including financial and technical (comprising a joint venture between KPMG and Babbie Group) and legal (McCann Fitzgerald and Bruckhaus Deringer jointly). In addition, TII has benefitted from financial advice provided from NDFA on certain projects since 2007.

As part of the procurement of the contracts listed, TII assessed all bidders against the relevant rules regarding mandatory disqualification of bidders under applicable procurement rules, including Articles 45(1) and 45(2) of Directive 2004/18/EC where in force. In such instances, bidders completed declarations confirming that none of the relevant grounds for automatic exclusion (i.e. participation in a criminal organisation, corruption, fraud and money laundering) applied to them at the time of the procurement.

Additionally, during the course of procuring the relevant contracts, TII never had any grounds to suspect that bidders were involved in bid-rigging, cover bidding, bid rotation or other equivalent mechanisms. Information around prices submitted were at all times treated confidentially and circulation of information regarding pricing was closely managed by TII. All procurements of PPP projects were carried out in a competitive environment and, in certain instances (e.g. Limerick Tunnel N7 Limerick Southern Ring Phase 2), no Spanish construction contractor formed part of any bidding consortium.

Details of the three recent major road schemes where Sanctioned Companies (or subsidiaries thereof) formed part of a successful bid leading to the award of contracts are detailed in Table 2 (highlighted #). The contracts were awarded in the period 2007-2013 to Ferrovial Construcción.

TII can confirm that none of the Sanctioned Companies are participating on TII Frameworks at the existing time and the companies are not directly participating in any live tenders issued by TII. TII will continue to consider this issue should these companies formally enter the live procurement process on future projects, bearing in mind that TII and all state bodies within the EU are required to comply with Article 57 of Directive 2014/24 if any exclusions from tender competitions are to be considered.

Table 1

Scheme name	Construction contractors	Scheme opened	Financial Close
N25 New Ross Bypass	New Ross N25 Bypass DAC ➤ BAM Civil Limited ➤ Dragados Ireland Limited #	2019	2016
M11 Gorey-Enniscorthy	Gorey-Enniscorthy M11 PPP Limited ➤ BAM Civil Limited ➤ Dragados Ireland Limited #	2019	2015
M6 Galway/Ballinasloe	N6 (Concessions) Limited & N6 (Construction) Limited ➤ PJ Hegarty & Sons ➤ Sacyr SAU # ➤ FCC Construction SA #	2009	2007
M7/M8 Portlaoise/Cullahill	Celtic Roads Group (Portlaoise) Limited ➤ Dragados SA # ➤ Ascon Limited	2010	2007
M50	M50 (Concession) Limited ➤ FCC # ➤ Itinere ➤ PJ Hegarty	2007	2007
N25 Waterford City Bypass	Celtic Roads Group (Waterford) Limited ➤ Dragados SA # ➤ Ascon Limited	2009	2006
M1 Dundalk Western Bypass	Celtic Roads Group (Dundalk) Limited ➤ Dragados Obras y Proyectos S.A # ➤ Ascon Limited ➤ Edmund Nuttal Limited	2005	2004

M4/M6 Kilcock/Kinnegad	Eurolink Motorway Operation Limited <ul style="list-style-type: none"> ➤ Ferrovial (Agroman) Ireland Limited # ➤ SIAC Construction 	2005	2003
M3 Clonee Kells	Eurolink Motorway Operations (M3) Limited <ul style="list-style-type: none"> ➤ Ferrovial (Agroman) Ireland Limited # ➤ SIAC Construction ➤ Budimex Dromex Spolka Akcyjna 	2007	2010

Table 2

Scheme name	Construction contractors	Scheme opened
N1Border/Dundalk scheme	Joint venture between <ul style="list-style-type: none"> ➤ SIAC ➤ Ferrovial # 	2007
M50 Phase 1	Joint venture between <ul style="list-style-type: none"> ➤ SIAC ➤ Ferrovial # 	2008
Belturbet bypass	Joint venture between <ul style="list-style-type: none"> ➤ Ferrovial Aggroman # ➤ P.T. Mc Williams 	2013

8. **A detailed note on the Blackpool flood relief scheme, including the current process for the scheme, the date upon which external advice was given to the Department in relation to the scheme, and why there has been such a delay since the judicial review on the scheme.**

Role of the Minister for Public Expenditure, NDP Delivery and Reform

The Minister for Public Expenditure, NDP Delivery and Reform has responsibility for confirming the commencement of river drainage and flood relief schemes promoted and developed by the Office of Public Works (OPW) under the Arterial Drainage Acts 1945 and 1995. This is essentially a planning function, as the Department has no direct role in the delivery of these projects. The Minister is required to examine schemes submitted by the OPW and ensure compliance with relevant environmental standards as set out in the Environmental Impact Assessment Directive and The Habitats Directive.

This represents a very small subset of flood relief schemes, with the vast majority of schemes going through the broader planning framework run by An Bord Pleanála (a full list of Arterial Drainage Act schemes is provided under item 15). The responsibilities the Minister holds are set out in detail under *The European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019*.

Latest Position on the Blackpool Process

A timeline of the Department's consideration of this scheme is outlined below. As of the time of writing, the Department has sought supplementary information from the Commissioners of Public Works in accordance with Section 7B(4) of the Regulations. Information sought under Section 7B(4) is considered necessary in order to reach a reasoned conclusion on the environmental impacts of the scheme. In this instance, much of the information sought relates to the updating of baseline ecological data in order to ensure the conclusions of the original EIAR remain valid.

Timeline of Blackpool Flood Relief Scheme Consent process

- August 2018-September 2019: Submission by the OPW of the River Bride (Blackpool) Flood Relief Scheme to the Minister for Public Expenditure, NDP Delivery and Reform for confirmation under the Arterial Drainage Act 1945 took place as new Regulations were being drafted to give effect to the EIA Directives (2011 and 2014) for the purposes of flood relief schemes under the Act. Work was undertaken within the Department to ensure the scheme was progressed in a way that was consistent with EU obligations, with the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019 being signed into law in September 2019.
- January 2020: Environmental consultants (CAAS Ltd) were contracted by the Department to undertake the appropriate assessment functions, involving an independent review of the Environmental Impact Assessment Report (EIAR), the Natura Impact Statement (NIS), and the submissions to a public consultation (coordinated by DPENDR). This was informed by the new regulatory environment introduced in September 2019.
- Late January/February 2020: Public consultation/participation phase was launched by this Department – closing date of 27th February. Over 100 submissions were received and duly passed over to CAAS for review, in conjunction with the review of the EIAR and NIS.
- April 2020: Initial review of EIAR, NIS and public submissions completed by CAAS Ltd and issued to this Department for review. Consultants had identified the need for supplementary information in order to make a more fully reasoned set of conclusions and recommendations to the Department.
- May 2020: The Department issued a request to OPW for supplementary information sought by CAAS Ltd. The OPW confirmed due to their current workload and the nature of the information requested that it would likely be October when the information would be provided.
- October 2020: Supplementary information from OPW was received by this Department and passed to CAAS Ltd, with a request to review and consider in providing final recommendation to the Department on whether the Minister's consent is appropriate.
- January 2021: Following updated review of EIAR and NIS received in December 2020, CAAS recommended consent be granted with conditions affixed to mitigate certain potential environmental impacts of the scheme.

- February 2021: The OPW were informed of the position for the Minister to confirm the scheme subject to conditions based on the independent report's recommendations. On 2 March, the Commissioners confirmed that they would comply with the conditions.
- March 2021: the Minister consented to the scheme by way of Ministerial Order.
- June 2021: Leave for Judicial Review granted in case of *Chris Moody et al. -v- Minister for Public Expenditure and Reform et al.*
- January 2022: Acting on the basis of legal advice, the Minister conceded on a single ground of the applicant's case. The ground related to the need for the holding of a further period of public consultation as prescribed by Section 7C(3) of the European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019. The process was subsequently remitted to an earlier phase by a High Court order.
- February 2022: The Department received comprehensive legal advices on discharging the Minister's role under the Regulations more broadly. The advices took account of issues encountered during the Judicial Review proceedings. On foot of this legal advice, the Department wrote to the Office of Public Works to seek supplementary information under Section 7B(4) of the Regulations. The Supplementary Information request related to matters concerning the waterbody status of the River as well as the in-combination effects of the scheme when considered along with the Lower Lee Scheme and the Morrison's Island Scheme.
- October 2022: The OPW provided supplementary information to the Minister in response to the request of February 2022.
- November 2022 – December 2022: Departmental consideration of further information received and formulating of next steps in regulatory process.
- February 2023: The Department re-engaged with CAAS Ltd on foot of the receipt of further information to scope out the further examinations to be undertaken in order to reach a decision in respect of the scheme.
- March 2023: Following consultation with the Department's legal advisor, an outline of a new scope of works was provided to CAAS Ltd, who in turn provided an updated fee proposal for the works.
- May 2023: The Department formally instructed CAAS Ltd to proceed with the works on the basis of the updated fee proposal having undertaken internal consultations to satisfy itself of compliance with procurement guidelines.
- September 2023: CAAS Ltd provide the Department with Draft report outlining the need for further supplementary information to be sought from the OPW.
- November 2023: The CAAS recommendations were accepted by the Minister with a formal request for supplementary information issued to the OPW in accordance with Section 7B(4) of the Regulations. Once this information has been provided, the assessment of the scheme can continue, which will also include a period of public consultation.

Impact of Judicial Review

The Judicial Review process annulled the Minister's consent to the scheme and reverted the process to an earlier phase. The Department received legal advice to

account for the grounds raised during the course of the Judicial Review. The learnings obtained from legal advice throughout and after the proceedings continue to inform the Ministerial consent process. The advice obtained has been implemented in the Blackpool scheme, leading to a further request for supplementary information. This advice is also informing the process with regard to other schemes being progressed under the Regulations, with similar impacts to timelines to the Crossmolina (River Deel) flood relief scheme, to ensure that any decision reached by the Minister is done in compliance with the Regulations.

9. The number of legal cases per annum that the Department contests or deals with, on average.

The tables below set out the number of legal cases brought against this Department including the Office of Government Procurement, which is a Division of the Department, in which the Chief State Solicitor's Office or the State Claims Agency acted, and which commenced in the past five years.

By way of background, the Garda Litigation cases are Garda Compensation Cases where, while the instructing client is An Garda Síochána / Minister for Justice, the defendant in these cases is the Minister for Public Expenditure, National Development Plan Delivery and Reform as per the relevant legislation. In a similar manner, virtually all of the employment law cases actually relate to Consultant Contract files.

Chief State Solicitors Office

	2019	2020	2021	2022	2023
Garda Litigation	159	113	58	61	126
Employment Law	119	1	2	65	3
Advising	4	1			
Judicial Review					
Commercial & Constitutional		3	4	3	2
General Litigation	4	3	2	1	
State Securities Section					
Constitutional & State Litigation					
General Legal Services	2	1	3	1	1
European Union Law		1		14	21
Land and Property Law			1		
Human Rights	1		1	3	
Total	289	123	71	148	153

State Claims Agency

	2019	2020	2021	2022	2023
Personal Injury / Third Party Property Damage	5	1	1	1	1

10. A detailed note in relation to the relocation of Garda headquarters from Harcourt Street to its new premises (pg. 23).

The following update has been provided by the Office of Public Works (OPW), which have responsibility for the delivery of these projects.

Harcourt Square Complex

- The Harcourt Square complex which was occupied by An Garda Síochána (AGS) was successfully vacated and surrendered back to the Landlord on 31 December 2022, in accordance with the terms of the lease held by the OPW.

Garda National Support Services Headquarters, Walter Scott House

- A new Garda Security and Crime Operations Centre at Military Road, Dublin 8 has been provided to replace accommodation for the majority of the Garda operations previously based at Harcourt Square.
- The development consists of the construction of a new 10,060 sq.m six and four storey office building with a green roof and central atrium, over two floors of 9,275 sq.m basement car parking with ancillary accommodation, on a site of circa 0.86 ha.
- A contract was awarded in February 2020 and construction works commenced in February 2020.
- The building was handed over to AGS on 1 November, 2022.
- The building was completed on time and on budget.
- Official opening of Walter Scott House took place on 25 November, 2022.
- Seven Garda Bureaus/Units previously located in Harcourt Square are now accommodated in the new Garda Security and Crime Operations Centre, Military Road.
- Two Bureaus that were not previously accommodated in Harcourt Square were assigned to Military Road for operational efficiency reasons.

Interrelated Projects

Heuston Station - National Train Control Centre (NTCC)

- This project was delivered by the National Transport Authority for Irish Rail.
- The Lease was executed by the OPW in November 2022.
- AGS Command & Control moved into the NTCC in November 2022.

Garda HQ – Block J

- This project relates to the full refurbishment of an existing building in Garda HQ to accommodate a specialist Unit of AGS. The building was in poor condition and required fabric upgrade works.
- The project started on site in September 2022 and it is planned that the specialist unit will move into their new accommodation in early February 2024 from their interim accommodation (see below).

Clyde House, Blanchardstown

- The lease for Clyde House was executed by the OPW in July 2022.
- Landlord fit-out commenced in September 2022 and Substantial Completion was achieved in Q3 2023.
- The two Bureaus moved into Clyde House in Q4 2023 from their interim accommodation (see below).

Former Intreo Office Navan Road and 52 St. Stephen's Green

- Contingency Plans were developed in the event that the Garda Security and Crime Operations Centre project and / or the other associated projects were not fully completed to meet the vacation deadline from Harcourt Square.
- When it became apparent that the works to both Clyde House and J Block works would not be completed in time, interim solutions were agreed with AGS in the former Intreo Office, Navan Road, Dublin 7 and the 1970's extension to 52 St Stephens Green. Both buildings were handed over to AGS in November 2022 and with the completion of the works to Clyde House and Block J, both buildings will be fully vacated by AGS in early January 2024.

Dublin Castle

- The Dublin Metropolitan Region previously based in Harcourt Square was relocated into existing Garda accommodation in Dublin Castle in early December 2022.

11. The number of cybersecurity incidents over the past 12 months.

This Department implements a multi-layered approach to cyber security and to protecting ICT systems, infrastructures, and services. This defence-in-depth security strategy is achieved through the effective combination of People, Processes, and Technology to support the implementation of appropriate security measures and provisions. With the threat landscape constantly evolving, significant effort is expended to continually enhance and strengthen ICT security to mitigate against emerging threats, risks, vulnerabilities and cybersecurity issues.

In terms of cyber security strategies, the Department works closely with the National Cyber Security Centre and encompasses the State's national/governmental Computer Security Incident Response Team (CSIRT-IE).

To date, this approach has delivered the necessary protection to our systems and despite in excess of 1,400 attempts over the last 12 months, the Department found no evidence to indicate a cybersecurity incident had occurred.

12. The number of staff allocated to the Data Governance Board.

The Data Governance Board is supported by a team of 9 people within the Data Governance Unit in Office of the Government Chief Information Officer, which is a Division of the Department.

13. A note on secondments, particularly from PwC, within all State Departments over the past ten years.

There have been no secondments from the organisation specified to this Department over the past ten years. It is highlighted that a Parliamentary Question on this matter, also covering a ten year period, was submitted to all Departments on 13 June, 2023. The responses to those PQs would provide the material requested in respect of all Departments.

14. The number of cases with which the Department has assisted the Competition and Consumer Protection Commission.

The Office of Government Procurement (OGP), which is a Division of the Department, has assisted the Competition and Consumer Protection Commission (CCPC) with one case. In addition, CCPC has contacted OGP to obtain data regarding two mergers / acquisitions.

15. A note on the live flood relief schemes that are with the Department at present, with a table showing the time it is taking for consultants to turn around packages once they have been submitted to the Department from the OPW, and a timeline for completion for each scheme.

The below table outlines flood relief schemes which have been submitted to the Minister for Public Expenditure, NDP Delivery and Reform under *The European Union (Environmental Impact Assessment) (Arterial Drainage) Regulations 2019*.

Scheme	Submitted to the Department by OPW	Decision Issued
Blackpool (River Bride)	August 2018	Confirmed March 2021 (Annulled by Judicial Review January 2022)
Glanmire/Sallybrook (Glashaboy River)	September 2018	Confirmed January 2021
Enniscorthy (River Slaney)	February 2020	Refused March 2022 under section 7E1 of the Act in March 2022 on the basis of advice from independent environmental consultants on the environmental impact of the scheme.

Crossmolina (River Deel)	October 2020	No decision made as yet
Raphoe	May 2023	No decision made as yet

The average turnaround time of a process where a decision has been made under Section 7E of the Regulations is 27 months. The time taken to reach a decision can vary greatly depending on a multitude of factors such as:

- the complexity of the scheme;
- the level of assessment required as determined by the EIA/AA Screening process;
- whether supplementary information is subsequently required from the developer (the Commissioners of Public Works) in order to reach a reasoned conclusion on the environmental impacts of the scheme;
- the nature of any supplementary information which may be sought, including where primary data is to be collected from the site in question by the OPW and therefore dependent on specific weather/environmental conditions being present;
- whether any supplementary information received is deemed to be significant and requires further periods of public consultation; and
- the quantum of submissions received during periods of public consultation which must be considered in reaching a reasoned conclusion on the environmental impacts of the scheme.

While timelines are agreed with external providers for the achievement of specific deliverables, it is difficult to accurately predict the completion of a consent process as to do so would pre-empt the outcome of any assessments to be undertaken. Furthermore, unforeseen consequences of legal challenges and required follow-on action can have significant impacts on the timelines for discharging this function.

Legal advices received by the Department during the Judicial Review of the River Bride scheme also inform the assessment of each subsequent scheme. To ensure full compliance with the regulations and, as a result of legal advice received, further assessments and supplementary information has been required which were not previously envisaged.

16. A note on any reforms or updates happening in relation to the OGP's current public contract.

Background

The Capital Works Management Framework (CWMF) represents the tools that a public body must use to procure and manage the external resources necessary to deliver a public works project that is to be delivered under the Exchequer-funded element of the National Development Plan. It consists of a suite of best practice guidance, standard contracts – including the suite of public works contracts, generic template documents and procedures that cover all aspects of the delivery process of a public

works project from inception to completion of the construction stage and the review of its delivery.

A high-level strategy has been developed by the Office of Government Procurement (OGP) with the Government Contracts Committee for Construction (GCCC) that will guide the implementation and will be addressed primarily through the progressive refinement and enhancement of the CWMF.

A review of the policies and practices deployed in the procurement of public works projects commenced in March 2019 and is ongoing. The focus of the review is on improving the delivery of construction projects in terms of quality, timely delivery and cost outcomes. The review will deliver significant changes to the CWMF over the coming years. The review process involves extensive engagement, both with industry stakeholders, and with the public bodies charged with the delivery of public works projects on a broad range of issues such as:

- price variation;
- risk management;
- creating a better quality: price balance in the award of contracts;
- adoption of Building Information Modelling (BIM) on public works projects;
- liability, indemnity and insurance requirements;
- performance evaluation; and
- encouraging collaborative working.

Work on the review was impacted by Covid-19 as resources were diverted to the many challenges that arose as a result of the public health measures that were introduced to control its spread. These measures ranged from shutting down the sector entirely to constraints on output once contractors were permitted to reopen construction sites. We also witnessed sudden price increases and supply chain disruption immediately after economies reopened in the aftermath of the vaccination programme.

In response to these events, the OGP published guidance and developed measures to enable parties to public works contracts to work through the challenges that were created.

It has only been since the beginning of 2023 that the OGP has been able to refocus completely on the broader review programme resulting in significant amendments to the CWMF aimed at rebalancing the level of risk transferred under the public works contracts, while maintaining expenditure control for contracting authorities.

Inflation costs

Since early in 2022, measures have been introduced to steadily reduce the level of inflation risk that contractors are expected to bear on public works projects in response to the increased level of price volatility which arose in the aftermath of the pandemic and further increased following the Russian invasion of Ukraine. Most recently, in July 2023, further amendments were made to the Public Works Contract to provide greater certainty to contractors in response to continuing inflationary pressures in the construction market.

The package included:

- amending the Price Variation Mechanism to enable the recovery of additional costs associated with inflation to an approach solely based on indices published by the Central Statistics Office;
- removing the fixed price period for materials, energy and fuel;
- lowering the threshold for recovery of inflationary costs in key material categories; and
- introducing a simple price variation provision to cover materials in Public Works Contracts of lesser value.

The Price Variation mechanism now operates using a formula fluctuation method which responds to movements in the publicly available indices published by the Central Statistics Office, ensuring that both parties are adhering to a fair and transparent process.

There is no longer a fixed price period for materials, fuel and energy but a fixed period of two years from the tender date still applies to labour costs.

The threshold above which the contractor can recover price increases due to inflation has been reduced to a range between 3- 10% from which the contracting authority selects a single value.

Simpler mechanisms to determine adjustments to the contract sum for inflation have been provided in the forms of contract which apply to works with a value less than €5m.

Price Variation Workbooks and guidance were published in July 2023 to simplify and streamline the calculation of inflation increases for contracting authorities and contractors alike.

Whilst the level of inflation risk has been greatly reduced, it remains the case that contractors should carry some degree of the additional costs arising due to inflation because it encourages more efficient purchasing thereby addressing value for money concerns.

Insurance & Liability

Professional indemnity insurance (PII) protects the insured against claims for alleged negligence or breach of duty arising from an act, error or omission in the performance of professional services. It is typically carried by consultants and contractors engaged in design and advisory services on construction projects. PII provides cover on a 'claims made' basis and purchasers of PII are reliant on the policy in place at the time the claim is made to react. This may be many years removed from when the act or omission that is the subject of the claim occurred.

The market for PII has tightened considerably since 2019 as the level of capital available to this insurance category has reduced in response to a thematic review

undertaken by Lloyds which identified PII as loss making. It has resulted in substantial increases in the cost of premiums and a reduction in the level of cover that was generally available prior to 2019 meaning that fewer businesses were able to meet the standard PII requirements set down in the procurement templates published under the CWMF.

With respect to live contracts, many consultants and contractors are now unable to obtain the level of cover that they are contractually required to carry over the duration of the contract.

The OGP engaged with key stakeholders on the issue of liability, indemnities and insurance and reviewed broader aspects of the required terms in the contracts used to engage design teams and contractors. Arising out of the engagement, amendments to CWMF documents and additional guidance were published in February 2022 to address PII challenges.

A further recommendation arising out of that engagement was to introduce caps on liability into the suite of CWMF contracts to provide certainty to all those engaged in the delivery of public works projects as to the extent of their liability in the event of a breach.

Guidance was published that sets levels of insurance that are available in the market place. These are set at levels appropriate to the scale of project being undertaken. Guidance on alternative products for contracting authorities who may wish to have greater certainty as to the level of cover that will be available on a project basis has also been published.

Procurement templates were revised to cater for the new arrangements. The final phase concluded with the introduction of liability caps into the forms of contracts used to engage consultants in Q1 2023 and those for works contractors in Q3 2023.

Adoption of Building Information Modelling on public works projects

A key theme of the review of the CWMF is the development of high quality information to enable better-informed decision making and reducing risk on construction projects. Building Information Modelling (BIM) represents a standards driven process to structure the information generated on a construction project. A high level implementation plan was outlined by the Minister for Public Expenditure, NDP Delivery and Reform and the Minister of State with responsibility for Public Procurement in July 2023 setting out dates for a phased adoption of BIM on public works projects.

The implementation strategy has factored in the varying levels of BIM skills that currently exist in the Irish Construction Sector. BIM will be phased into public works projects over a four-year period commencing in January 2024 with large-scale projects initially.

Government is providing support to industry to adopt BIM through the Build Digital project. BIM offers industry the opportunity to rationalise its working methods, reduce waste and explore opportunities for off-site production. These all contribute to a leaner and safer project delivery making the industry a more attractive proposition from an investment and recruitment perspective.

The Government's initiative is broader than merely the public capital programme but is aimed at the industry as a whole. The recent publication of new Standards for BIM by the International Organisation Standards (ISO) will develop a consistent approach to the delivery of BIM in Ireland and in a worldwide market.

The NSAI BIM Mirror Group has published an Irish Annex to ISO 19650-2:2018 for use in the Irish construction sector for both Public and Private BIM projects.

Other workstream updates

A series of workshops commenced Q3 2023 between stakeholders as part of the overall programme to reform the manner in which construction technical professional consultancy services are engaged. These workshops are focused on better definition of the scope of service requirements. It is intended to complete the review by end 2023, with a series of recommendations implemented throughout 2024.

Work is ongoing on introducing a fee adjustment mechanism for inflation in the forms of contract used to engage consultancy services. New template forms for the cost planning and cost control of building projects and civil engineering projects were published in August 2023 to incorporate the International Cost Management Standard (ICMS). ICMS is a global standard for benchmarking and reporting of construction project cost and covers both capital and whole life costing while providing a way of presenting costs in a consistent format. The new template forms will enable the reporting of both operational and embodied carbon for the first time across the NDP. Their use is currently limited to cost reporting due mainly to the lack of empirical data on embodied carbon in construction materials. This is expected to improve over time as greater focus is placed on reducing the carbon footprint of construction.

Together, these reform processes will lead to meaningful policy change and will assist in delivering better value for money for the taxpayer in the implementation of Project Ireland 2040.

17. A note on any instances where consultancy costs have driven up the cost of public projects, and why consultants would be used where expertise already exists within State bodies and local authorities, particularly in relation to TII using consultants to design footpaths going to a housing estate.

Transport Infrastructure Ireland (TII) as a funding Authority provides funding to Local Authorities for improvement works on National Roads and Greenways. The projects are delivered through the various stages of design and construction by the Local

Authorities. TII would not directly request consultants to carry out design work on footpaths. The relevant local authority, as the Road Authority, for the roads within their jurisdiction, may however employ consultants to design a footpath where the resources were not available internally to carry out such work. In circumstances where the footpath is required as part of a safety scheme on a National Road, the funding required to procure the consultant could be provided to the Local Authority by TII.

With regard to the example provided of the installation of a footpath and public lighting in Durrow, this particular location is on the regional road network and as such does not fall under the remit of TII. The work was funded through the National Transport Authority (NTA) under its Active Travel programme. The NTA have confirmed that the engagement of consultants is a decision for the local authorities themselves and the NTA do not mandate that they do so for any particular project. It may be the case, however, that some local authorities do not have the resources or the competencies / skillsets to carry out certain aspects of project design or delivery and, in that case, the NTA may recommend that consultants are brought in to provide this expertise if the local authority has not already done so.

18. A note on the Mountmellick flood relief scheme, including the timeline and additional funding for same (the material below also covers Item 20. – A detailed report on the Midleton and Rathcormac flood relief schemes, including the rationale for the delay to the Midleton scheme).

The following update has been provided by the Office of Public Works (OPW), as this Department has no role in the delivery of these projects.

OPW Briefing Note on Midleton, Mountmellick and Rathcormac Flood Relief Schemes

The Government has committed €1.3 billion to the delivery of flood relief schemes over the lifetime of the National Development Plan to protect approximately 23,000 properties in communities that are under threat from river and coastal flood risk. Since 2018, as part of a phased approach to scheme delivery, this funding has allowed the OPW, in partnership with local authorities throughout the country, to treble the number of schemes at design, planning and construction to some 100 schemes at this time. In the last 6 years (2018-2023), the OPW has invested some €350 million in flood relief expenditure.

To date, 55 schemes have been completed, which are providing protection to over 12,000 properties and an economic benefit to the State in damage and losses avoided estimated to be in the region of €1.9 billion.

Schemes currently being delivered have been prioritised as Tranche I schemes. The OPW, working closely with its Local Authority delivery partners, at all times strives to expedite and progress capital flood relief works with the minimum delay within the resources, including the specialised engineering resources, available to it.

Mountmellick and Midleton are Tranche I schemes and work on the design for a scheme for Rathcormac forms part of the Tranche II schemes, as part of the national programme.

Midleton Flood Relief Scheme

Cork County Council is leading the design of the scheme and in 2017 (ahead of the completion of the Flood Risk Management Plans) appointed engineering and environmental consultants. Midleton has proven to be one of the most complex schemes. It has flood risks from four sources – fluvial, tidal, groundwater and pluvial. In 2017, data did not exist on all sources and monitoring was required over a number of years to allow the flooding mechanism to be understood to inform a viable flood relief scheme design.

The data gathering and changing regulatory requirements, including on environmental assessments, increased the scale and scope of the design project. Throughout this time, three Public Participation Days have been held in 2017, 2020 and 2022. As well as engaging with the local community on the scheme's progress, these served to gather useful information and assess their views on the emerging and, more recently, the preferred option for the Midleton Flood Relief Scheme.

The preferred scheme has now been identified with a total project budget of €50 million, three times the estimated budget in 2017. This highlights the scale of the project's increase in scope. It also highlights that today a scheme has been designed that is robust, supported by strong evidence, has the support of the community and is future proofed and adaptable to climate change scenarios. The preferred option protects 580 properties against the 1 in 100 year flood fluvial event, can give back flood insurance to the town and stands up to scrutiny and / or challenge.

An assessment following Storm Babet is underway, to ensure the scheme's design can meet the standard of protection required by the insurance industry. Cork County Council is assessing possible interim measures to help mitigate damage from a flood event pending the completion of the scheme.

Mountmellick Flood Relief Scheme

The Mountmellick Flood Relief Scheme is currently approaching the end of Stage One with the selection of a preferred option, which involves flood defences such as embankments, walls, culvert upgrades and a bridge replacement over the Owenass River that will provide protection to approximately 80 properties against flooding.

The preferred option was selected based on a range of criteria including economic, environmental and ecological impact, climate change adaptability and consideration of the feedback which arose during the public and stakeholder consultation process. A closing Public Information Day was held in September 2023, at which the final proposed scheme was presented. Consultations have also taken place with Inland Fisheries Ireland and the National Parks and Wildlife Service.

The planning consent process will begin in Q1 2024, including completion of an Environmental Impact Assessment Report for the identified option.

Rathcormac Flood Relief Scheme

While the prioritised approach to delivering schemes means that work is complete or underway to protect some 80% of all at risk properties, nationally, the flood relief projects for Rathcormac is not in the first tranche of projects being progressed nationally. However, the funding for this scheme is available.

Given the specialist engineering skills required for flood relief schemes, delivery of additional schemes is constrained by the availability of this specialist resource. To inform delivery of future schemes, the OPW is piloting a new delivery model. This was announced by the Minister of State with responsibility for the Office of Public Works in May 2023.

It is open to Cork County Council to consider introducing interim works ahead of the scheme for Rathcormac. The OPW Minor Flood Mitigation Works & Coastal Protection Scheme provides funding to Local Authorities to undertake minor flood mitigation or coastal protection works or studies to address localised flooding and coastal protection problems within their administrative areas. This scheme provides 90% funding to local authorities to manage localised flood risk. The OPW encourages local authorities to avail of the funding under the scheme to address such localised flooding issues.

19. Whether collective bargaining is factored in, regarding public procurement guidelines.

Collective bargaining is factored into the public procurement guidelines. The General Procurement Guidelines for Goods and Services, which can be accessed at <https://www.gov.ie/en/publication/c23f5-public-procurement-guidelines-for-goods-and-services/>, directly reference the International Labour Organisation (ILO) Right to Organise and Collective Bargaining Convention, 1949 (No. 98), as part of Appendix IX of the Guidelines which list the minimum standards and applicable obligation in the fields of environment, social and labour law.

The minimum standards requirements feature at relevant stages in the procurement process, for example when deciding whether to award a contract to the most economically advantageous tenderer, when assessing abnormally low tenders and, where appropriate, in relation to subcontracting.

In Ireland public, procurement is governed by legislation at a European and national level. The two key EU Directives on public procurement are:

- Directive on public procurement (goods, services and works) (2014/24/EU); and
- Utilities Directive on procurement by entities operating in the water, energy, transport, and postal service sectors (2014/25/EU).

The directives were transposed into Irish law as statutory instruments in 2016. These rules govern the way public bodies and utility operators purchase goods, works and services for contracts valued over a determined threshold. For tenders of lower value, national rules apply that also must respect the general principles of EU law.

Over recent years, the Office of Government Procurement has taken into account EU priorities on public procurement which include the wider uptake of innovation, green and social procurement, increasing access to procurement markets, improving transparency, integrity and data, and boosting the digital transformation of procurement.

In addition to the directives, a list of the OGP's most important policy supports are:

- Circulars: 20/19 promoting the use of environmental and social considerations; and 05/23 Initiatives to assist SMEs;
- Capital Works Management Framework for Public Works;
- General Procurement Guidelines for Goods and Services (updated 2023); and
- Technical guidelines, template documentation and information notes.

These emphasise that public procurement must be conducted in a fair and transparent manner that affords equal opportunities for competing suppliers.

20. A detailed report on the Midleton and Rathcormac flood relief schemes, including the rationale for the delay to the Midleton scheme.

This information is included in the response to Item 18 above.